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FILED
LOS ANGELES SUPERIOR COURT

OCT 30 2007

JOHN A. CLARKE, CLERK
WM. ARNOLD
BY M. ARNOLD, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BRITNEY SPEARS
Petitioner
vs.
KEVIN FEDERLINE
Respondent

Case Number: BD455662

COURT'S RULING ON
SUBMITTED MATTERS

Redacted

On October 26, 2007, a hearing was held in Department 88 of the Los Angeles County Superior Court regarding:

Respondent's October 3, 2007, Ex Parte Order to Show Cause Regarding Child Custody and Visitation;

Petitioner's October 11, 2007, Ex Parte Order to Show Cause Regarding Child Custody and Visitation;

Respondent's October 17, 2007, Ex Parte Order to Show Cause Regarding Child Custody and Visitation;

Respondent's October 25, 2007, Ex Parte Order to Show Cause Regarding Child Custody and

1 Visitation and Opposition to Modification of Drug Testing Orders, and;
2
3 Petitioner's October 26, 2007, Ex Parte Order to Show Cause Regarding Child Custody and
4 Visitation and Modification of Drug Testing Orders.
5

6 The Court has considered the pleadings filed by the parties, the testimony of the witnesses,
7 including the parties, and their respective arguments. As indicated by the Court in prior orders,
8 the following orders are made pursuant to Family Code §§3022 and 3087. Previously, the
9 Court has ordered a full Child Custody Evaluation to be conducted. The parties advised the
10 Court that the report will not be completed until at least the middle of January 2008. Pursuant
11 to the request of the parties, the prior dates set for the return of the evaluation and the
12 evidentiary hearing on the Respondent's August 8, 2007, Order to Show Cause Regarding
13 Child Custody and Visitation are vacated, and the evidentiary hearing is scheduled for April 9.
14 11, 2008.
15

16 Evidence submitted by the parties indicates the Petitioner has completed three sessions of
17 individual counseling and the parties have begun joint counseling and the Parenting Without
18 Conflict course.

19
20 Pursuant to the Court's prior orders, Ms. Lisa Hacker, the court appointed Parenting Coach,
21 prepared and submitted a report (Court's 1 dated October 19, 2007) to the Court. Ms. Hacker
22 testified at length at the hearing of October 26, 2007, and was examined by Counsel for each
23 party.
24

25 Ms. Hacker's report indicates that on three different days (September 28, October 4, and
26 October 18) she made attempts to meet with the Petitioner in order to comply with the Court's
27 orders. The Petitioner failed to meet with Ms. Hacker on those occasions. Since those initial
28 attempts, Ms. Hacker did have the opportunity to meet with the Petitioner as ordered by the

1 Court.

2

3 Ms. Hacker's report (Court's 1) details her observations made during her visits with the
4 Petitioner. Ms. Hacker's report and her testimony makes it clear that she feels the Petitioner
5 loves her children and the children are bonded to the Petitioner. However, Ms. Hacker made
6 several observations that are of concern. Ms. Hacker expressed concern that many of
7 Petitioner's interactions with the children are not child-centered. Ms. Hacker was also
8 concerned that the Petitioner did not fully engage with the children when she interacted with
9 them. Ms. Hacker wrote of the Petitioner's choices regarding activities in her report: "It seems
10 that her choices are dependent more upon what she wants to do at any given time rather than
11 what would be more enjoyable for the children."

12

13 Ms. Hacker further indicated that while with the Petitioner, the children have no real schedule
14 or routine. She indicated that "[t]he environment at the house ranged from chaotic to almost
15 somber with little communication at all." Ms. Hacker further reported that: "[d]uring all three
16 of my visits Ms. Spears rarely engaged with the children in either conversation or play."

17

18 Ms. Hacker stated in her report and during the course of her testimony that she was concerned
19 that neither of the Petitioner's residences were child-proofed.

20

21 Ms. Hacker reported that the Petitioner seemed to have a "lack of general attention at times." It
22 is of concern that Ms. Hacker wrote that during her visits, the Petitioner had little or no interest
23 in talking to or utilizing Ms. Hacker's guidance.

24

25 Ms. Hacker did report, and repeated in her testimony that there was nothing she "would
26 characterize as abusive in a traditional sense." Ms. Hacker testified that after she issued her
27 report to the Court, she had an additional visit with the Petitioner and the children (October 23,
28 2007). Ms. Hacker reported that visit was very different than the prior visits. Ms. Hacker

1 testified that the Petitioner seemed much more engaged with her and the children. Ms. Hacker
2 testified that the Petitioner's time with the children was very positive during the course of that
3 session.

4

5 The testimony with regard to the October 23, 2007, session was a very positive indication of
6 what the Petitioner's time with the minor children could be. However, it also raises questions
7 as to why the Petitioner chose to act in the manner described by Ms. Hacker in the visits that
8 were initially ordered by the Court and were the subject of the report of October 19, 2007.

9 These are the kinds of issues that the Child Custody Evaluation and evidence presented by the
10 parties at the evidentiary hearing on the matter will help to resolve.

11

12 Ms. Hacker closes her report by writing the following: "[t]he problem is that unless Ms. Spears
13 realizes the consequences of her behavior and the impact that it has [on] her children, nothing is
14 going to be successful."

15

16 No evidence was offered by either of the parties to controvert Ms. Hacker's observations or her
17 description of the events that occurred during and surrounding her visits and work with the
18 Petitioner.

19

20 The parties have submitted the reports of the monitors describing their observations made
21 during the course of their time with the Petitioner and the children. The reports generally offer
22 a positive appraisal of the Petitioner's time with the children; however several of the
23 observations made by the monitors corroborate Ms. Hacker's concern with regard to the need
24 for child-proofing at the Petitioner's home, the appropriateness of the activities selected by the
25 Petitioner for these very young children, and the need for child centered sleeping routines for
26 the children.

27

28 The Court has considered the pleadings and arguments made by Counsel with regard to the

1 Court's orders pursuant to Family Code §3041.5. The Court notes the Petitioner's arguments
2 regarding the type of testing ordered. In Deborah M. vs. Superior Court (2005) 128 Cal.App.4th
3 1181, the Court discussed the terms of Family Code §3041.5 with regard to the statutory
4 language describing the type of testing that could or should be ordered under the statute. In
5 Deborah M., the trial court had ordered the testing party to submit to hair follicle drug testing.
6 The Court held that Family Code Section 3041.5(a) requires any court-ordered drug testing to
7 conform to federal drug testing procedures and standards, and that those federal standards at
8 present only allow for urine testing. Deborah M. vs. Superior Court (2005) 128 Cal.App.4th
9 1181, 1187. The Court further discusses the requirements that must be met by the testing
10 facility with regard to the procedures and type of testing to be utilized when testing is ordered
11 pursuant to the statute. The testing employed must meet the procedure and standards
12 established by the United States Department of Health and Human Services.
13

14 The testing ordered in this case conforms to the requirements of Family Code §3041.5. There
15 was no evidence offered by the Petitioner that would indicate that the testing procedure she
16 proposed meets the requirements of the statute. Family Code §3041.5. The Court considered all
17 of the evidence presented and the modification of the orders regarding the Petitioner's
18 timeshare with the minor children. The Court has received and considered the results of the
19 testing performed and the declarations provided by the parties of the personnel from the
20 stipulated testing facility. This evidence documents the results of the tests and the facilities
21 efforts to conduct the testing pursuant to the Court's orders.
22

23 Based on all of the evidence submitted to the Court regarding the issues dealing with custody
24 and visitation of the minor children including, but not limited to the results from and
25 Petitioner's compliance regarding the testing ordered pursuant to Family Code §3041.5, the
26 Court orders:
27

28 PETITIONER SHALL SUBMIT TO RANDOM TESTING TWO TIMES PER CALENDAR

1 WEEK BY THE STIPULATED TESTING FACILITY FOR THE PRESENCE OF ALCOHOL
2 AND CONTROLLED SUBSTANCES. PETITIONER SHALL PROVIDE HER URINE
3 SPECIMEN WITHIN SIX HOURS OF TELEPHONIC NOTIFICATION FROM THE
4 TESTING FACILITY AT THE TELEPHONE NUMBER WHICH SHE PROVIDED TO THE
5 TESTING FACILITY AND COUNSEL. THE PETITIONER SHALL NOTIFY THE
6 TESTING FACILITY AND COUNSEL FOR EACH OF THE PARTIES FORTHWITH IF
7 SHE CHANGES THIS TELEPHONE NUMBER. THREE ATTEMPTS OVER THE COURSE
8 OF AT LEAST ONE HOUR TO CONTACT PETITIONER AT THE TELEPHONE NUMBER
9 SHE PROVIDED TO THE TESTING FACILITY WITHOUT A RESPONSE FROM THE
10 PETITIONER SHALL CONSTITUTE A FAILURE TO TEST PURSUANT TO THE
11 COURT'S PRIOR ORDERS.

12
13 These orders shall remain in effect for a period of sixty days from the date of this order. If
14 during that period, none of the ordered tests yield positive results and the Petitioner has fully
15 complied with the Court's orders made pursuant to Family Code Section 3041.5, the following
16 orders shall take effect:

17
18 PETITIONER SHALL SUBMIT TO RANDOM TESTING ONE TIME PER CALENDAR
19 WEEK BY THE STIPULATED TESTING FACILITY FOR THE PRESENCE OF ALCOHOL
20 AND CONTROLLED SUBSTANCES. PETITIONER SHALL PROVIDE HER URINE
21 SPECIMEN WITHIN SIX HOURS OF TELEPHONIC NOTIFICATION FROM THE
22 TESTING FACILITY AT THE TELEPHONE NUMBER WHICH SHE PROVIDED TO THE
23 TESTING FACILITY AND COUNSEL. THE PETITIONER SHALL NOTIFY THE
24 TESTING FACILITY AND COUNSEL FOR EACH OF THE PARTIES FORTHWITH IF
25 SHE CHANGES THIS TELEPHONE NUMBER. THREE ATTEMPTS OVER THE COURSE
26 OF AT LEAST TWO HOURS TO CONTACT PETITIONER AT THE TELEPHONE
27 NUMBER SHE PROVIDED TO THE TESTING FACILITY WITHOUT A RESPONSE
28 FROM THE PETITIONER SHALL CONSTITUTE A FAILURE TO TEST PURSUANT TO

1 THE COURT'S PRIOR ORDERS.

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3 With regard to the parties' timeshare with the minor children, as indicated in the Court's prior
4 orders, the Order to Show Cause filed by the Petitioner on August 8, 2007, raised significant
5 issues. In response to these concerns and at the request of the parties, the Court ordered a full
6 Child Custody Evaluation and set the matter for an evidentiary hearing. The Court then made
7 interim orders. Despite the numerous ex parte Orders to Show Cause filed by the parties, as
8 described above, the primary issue awaits resolution through the completion of the Child
9 Custody Evaluation and the evidentiary hearing on the matter. The evidence submitted by the
10 parties since the issuance of the Court's interim orders has been considered.

11

12 The Court makes the following orders with regard to the parties' timeshare with the children
13 pending the completion and submission of the Child Custody Evaluation. These orders are
14 made after consideration of all of the pleadings filed by the parties, the testimony of the parties
15 and the testimony of the other witness and the arguments of respective counsel. With the
16 following modifications, the Court's orders of September 17, 2007 and October 3, 2007, remain
17 in full force and effect:

18

19 The Petitioner's timeshare with the minor children each week shall consist of two visits
20 extending from 12:00 p.m. to 7:00 p.m. and one visit extending from 12:00 p.m. to 10:00 a.m.
21 of the following day. These visits will be monitored pursuant to the Court's prior orders.

22

23 The parties are ordered to meet and confer and provide the Court by November 2, 2007, with a
24 schedule of specific dates for the Petitioner's visitation. If the parties are unable to stipulate to
25 a schedule, the Court will make appropriate orders.

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5 The parties are ordered to meet and confer with regard to Holiday schedules and to submit a
6 stipulated schedule or the parties' requests by November 2, 2007.
7

8 The Petitioner is ordered to submit verification that her residences have been child-proofed by
9 November 2, 2007. This includes compliance with applicable city or Los Angeles County
10 ordinances regarding pool safety.
11

12 The Court's prior orders with regard to Ms. Hacker are modified as follows: The Petitioner
13 shall meet with Ms. Hacker one time per week for a two hour session at a location as indicated
14 by Ms. Hacker.
15

16 The minor children are not to be transported in a motor vehicle by any party unless the children
17 are properly secured in a properly installed child safety seat as described by the California
18 Vehicle Code.
19

20 These orders are effective forthwith and shall remain in effect pending further Court order
21 following the completion of the Child Custody Evaluation.
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27 DATED: October 30, 2007
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SCOTT M. GORDON, COMMISSIONER